



2015 Legislative News

by Senior Judge Barry Wood

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Legislative News for the week ending February 20th [Week 6]

Week 6 of the 2015 Idaho Legislative Session opened with a good deal of time and attention being directed at "big ticket" items before JFAC. The first was a presentation by Idaho Transportation Director Brian Ness regarding what is needed to build and maintain Idaho's aging roads and bridges; all of which amounts to significant funding needs. The second was an announcement by JFAC co-chair Senator Cameron that JFAC would be debating the Idaho Education Network (IEN) funding situation on Tuesday, which was a late and previously unscheduled agenda item. This is the system that provides broadband and video-conferencing services to a number of Idaho High Schools.

Relating to the Transportation funding issue, and by week's end, at least two significant proposals had been floated and one bill had passed the House. One proposal would add a projected \$200 million for roads and bridges by doing such things as add a tax of 8 cents per gallon of gasoline; add a tax of 12 cents a gallon on diesel; followed by additional 1 cent tax increases per gallon in future years; raise registration fees on cars by 50%; raise registration fees on commercial trucks by 25%; raise trip permits for over-legal loads by 50%; and tack on a \$140 a year extra registration fee for electric cars and \$75 a year for hybrids.

A second proposal was to fund the road and bridge repairs by increasing the state's sales tax by 1% across the board. Some of the logic heard expressed in support of this second proposal is that everyone in Idaho gains by having good roads and bridges and that an increase in sales tax is more "fair and equitable" than an increase in fuel taxes as outlined above because those who live in rural areas must necessarily drive more, therefore consuming more fuel, and hence are paying a disproportionately higher share of the transportation repair bill than the city folks. [*"Fair and balanced reporting here; I report and you decide."*]

The legislation relative to the transportation funding dilemma which passed the House, [HB95](#), seeks to exempt from sales tax the materials used in the construction, repair and improvement of public roads. Estimates have ranged that this tax relief would have a fiscal impact of \$15- to 20- million dollars on the state's general fund.

Regarding the Idaho Education Network issue mentioned in the opening paragraph above, and following Tuesday's quickly scheduled JFAC meeting, the House suspended its procedural rules and took up [HB 168](#) on Thursday which provides \$3.6 million in stopgap funding for high school broadband service to replace the now voided state contract with IEN vendors. According to news reports, the broadband to the affected high schools was due to be shut down over the weekend.

On Thursday, February 19, the germane committee co-chairs reported to JFAC (as it relates to the Idaho Judiciary, this means the co-chairs of the respective Senate and House Judiciary and Rules Committees).

Following these germane committee reports, JFAC voted unanimously to accept the revenue projection for next fiscal year of \$3.12644 billion, which figure was already approved by both Governor Otter and the Joint Economic Outlook & Revenue Projection Committee. This projected revenue figure reflects a 5.5% increase in state general fund tax revenues over last year. The practical significance is this number reflects the "size of the pie" to be divvied up.

Today, February 20, there was a public hearing for budget-related issues before JFAC, where general members of the public are able to address the committee.

JFAC will start its actual budget setting process on Tuesday February 24 and is scheduled to finish March 13. The Court's budget is scheduled to be set before JFAC on March 4. Following the budget setting process, JFAC will then start taking up appropriation "trailer bills," or those required to fund matters approved by the legislature which are outside of the initial budget setting process. An example of what this means was last year's judicial pay bill which was not in the Court's original budget request; but following passage of [SB 1394 \(2014\)](#), a "trailer bill" was required to then fund the pay legislation.

In terms of “going home,” the end of the budget setting process by JFAC is considered a significant milestone and usually signals an acceleration of the pace of bill activity through the respective chambers. Lists will start to be formed of bills which must be decided before adjournment, and there is a risk to many bill sponsors that their legislation may get left behind for consideration in another year.

The deadlines for both individual legislators to file a “personal bill” and for “germane committee” introduction have now expired in both chambers. Any proposal must now come through one of the “privileged” committees in order to receive a “print hearing.” This is yet another milestone in the session.

A second concealed weapons bill of the 2015 session has received committee approval to be printed. This new proposal is an NRA-backed bill which would, among other things, remove the current exemption for elected officials to carrying a concealed weapon without a permit. The bill, [SB 1090](#), is in addition to the previously printed “Constitutional Carry” bill reported on last week. There is also [SB 1092](#) dealing with knives for those who may be interested.

Three of the Court’s four proposed pieces of legislation for the 2015 session went before the full House on Monday and all passed. The bill numbers are:

[H0061](#) Juvenile corrections, probation

[H0062](#) Victim’s restitution judgment lien period

[H0064](#) Credit for time served

These will now move over to the Senate for assignment to committee, and as of this writing are scheduled for March 2 for a hearing in Senate Judiciary and Rules.

The fourth bill of the Court’s bills, [H0063](#) regarding revisions to bail on bench warrants for failure to appear, was pulled to be re-worded. The new RS on this revised proposal was before the House Judiciary and Rules Committee on February 17 for a print hearing and the replacement bill, [HB 158](#), is expected to be before the House Judiciary and Rules Committee for a hearing on the merits on Monday, February 23.

All four of the Court’s proposed “Defects in the Law” bills have now passed the Senate and are on the House side and are before committee:

[S1026](#) DUI License Suspension/ignition interlock devices

[S1027](#) Senior Judge Eligibility

[S1029](#) Financial Transaction Cards, Fraud

[S 1028](#) dealing with speed limits has already moved through the House Transportation Committee and is on the House Second Reading Calendar.

Also this week the House Judiciary and Rules Committee entertained a print hearing on what is now [HB 163](#) to extend certain of the effective date provisions of last year’s [SB1357\(2014\)](#), or the so called Justice Reinvestment legislation. Effective dates are proposed to be extended from March 1, 2015 to October 1, 2015 for certain sections of the bill and there is also an emergency provision. This bill is also scheduled to be heard on the merits before the Committee on Monday February 23.

The IDAPAs related to [SB 1357 \(2014\) \(JRI\)](#) involving the rules governing the Supervision of Offenders on Probation or Parole, and the rules governing establishment and operation of a Limited Supervision Unit by IDOC have completed their course through the respective Committees and were accepted.

[SB 1049](#) has been introduced and assigned to Senate State Affairs for hearing. This proposed legislation would create a presidential primary election on the second Tuesday in March in the years of presidential elections. All other candidates for state or federal office would be unaffected and would continue to use the May primary election date. The estimated fiscal note may be as much as \$2 million dollars.

The new bill seeking to consolidate Idaho’s existing public records law, open meetings law, and ethics in government laws into one single title has now been printed as [HB 90](#). [HB 91](#) is a companion bill with code corrections related to the measure.

[SB 1103](#) has been printed which would allow Human Trafficking victims to be able to petition the Courts to erase their criminal histories.

A packed House State Affairs Committee heard testimony on [HB 113](#) on Thursday morning, including [testimony from Michael Henderson](#), Staff Attorney for the Idaho Supreme Court. This is a bill which seeks to expand parental rights in Idaho to include legal guardians and also seeks to declare a parent’s right to make decisions regarding education of their child a “fundamental right.” Time ran out and the hearing was continued until Friday morning.

In other Capitol news, Governor Otter reports he is ready to come back to work following a hip replacement; Senator Elliot Werk from Boise resigned from the Senate to accept a job serving on the State Tax Commission; and Lt. Governor Brad Little's JFAC presentation took 12 seconds.

On the Radar.....

February 23: JFAC starts setting FY 2016 Budgets

February 23: House Judiciary and Rules Committee bill hearings

February 24: Senate Majority Leadership lunch with the Supreme Court

March 2: Senate Judiciary and Rules Committee bill hearings

March 4: The Supreme Court's budget setting is before JFAC beginning at 8 am MST

March 13: JFAC's target date to complete all budget setting

As a reminder for our remote on-line listeners who are interested in following legislative proceedings, first look for the appropriate agenda at <http://legislature.idaho.gov/sessioninfo/agenda.htm> . Then if you locate something of interest, at the designated time tune in on-line to "*Idaho in Session*" at <http://idahoptv.org/insession/> . From there, click on the "Legislature" icon and follow the prompts to the desired committee. Please note that JFAC has its own icon. In 2014 the Committee rooms were upgraded to include video as well as audio.

As always, if you have any thoughts, suggestions, or questions, please send them back this way -- bwood@idcourts.net.
Thanks for reading.

Legislative News for the week ending February 13th [Week 5]

Week 5 of the 2015 Idaho Legislative Session opened with a packed Senate State Affairs Committee hearing room on the question of whether the “instant racing” machines are actually “pari-mutuel” betting, or pooled betting, as on live horse races. Even a Shetland pony wearing a “service animal” sash was brought into the Capital as part of the overflow crowd for the hearing. At issue was [SB 1011](#) which would repeal the 2013 law that authorized betting on “historical” horse races, or broadcasts of past horse races. Objections have been raised that the 2013 law has led to slot machine-like betting terminals that are now operating in three different locations in Idaho. So many people appeared for the hearing that it had to be moved to the Lincoln Auditorium, and following a full morning of testimony, was ultimately continued to Wednesday. Following a second morning of testimony, the Senate State Affairs Committee voted to repeal the 2013 law. Here is a news account from the political blog, *EYE ON BOISE*, regarding a face-off between two 80 year olds, following the Committee vote referenced above:

Here's how high feelings were running after today's Senate committee vote to repeal "instant racing" in Idaho: In the marble hallway outside the Lincoln Auditorium, Idaho ranching icon Harry Bettis, in a white cowboy hat, approached the Coeur d'Alene Tribe's lobbyist, Bill Roden, who had given the closing statement in favor of the bill, and loudly called him a "damn liar," amid other comments. Roden walked away before Capitol security arrived.

"He was trying to get me to punch him, but I'm smarter than that," Roden, 86, said afterward. He said the two also had a "shouting match" last year.

Bettis, 80, is one of five owners of Les Bois Park. In today's testimony, the president of the company running the park said if instant racing is repealed, Les Bois Park will close.

On Monday it was announced by DFM that Idaho's general fund revenues (tax revenue) came in about \$1 million dollars ahead of projections. This brings the fiscal year to-date total about 1.2% over the revised forecast numbers. This is good news as JFAC moves toward the budget setting process.

On February 10, the Senate just barely passed a bill to allow the creation of a new specialty license plate “Friends of the NRA”. [HB 16](#) passed by a vote of 18-15.

State Appellate Public Defender Sara Thomas told JFAC on Tuesday that the attorneys in her office are making an average of about \$16,000 less than their counterparts in the Idaho Attorney General's Office who handle the same cases.

Three of the Court's four proposed pieces of Legislation for the 2015 session were before the House Judiciary and Rules Committee on February 11 for a hearing on the merits. The bill numbers are:

- [H0061](#) Juvenile, corrections, probation
- [H0062](#) Victim's restitution judgment lien period
- [H0064](#) Credit for time served

The result of the February 11 hearing was each of the above three bills were sent to the floor of the House with a “DO PASS” recommendation.

The fourth bill, or [H0063](#) regarding revisions to bail on bench warrants for failure to appear, was pulled to be re-worded. The new RS on this revised proposal will be before the House Judiciary and Rules Committee on February 17 for a print hearing. As reported in prior weeks, the deadline for individual legislators to file a “personal bill” has expired in both chambers, and the “germane committee” deadline is February 16 (the 36th legislative day) or next Monday. However, the House Judiciary and Rules Committee has received special permission from the Speaker of the House to hear a number of proposed measures for print beyond the February 16 pre-established cutoff date. These will be heard February 17, and will likely include the proposal to extend the effective dates of certain provisions of the Justice Reinvestment Initiative, or [SB 1357 \(2014\)](#). Following the germane committee deadline, and unless special permission has been granted, any bill must come from a “privileged committee.”

Justice Linda Copple Trout, Interim Administrative Director of the Courts, delivered the Idaho Supreme Court's [Budget presentation to JFAC on February 12](#). The presentation was very well received.

JFAC will start its actual budget setting process on Tuesday February 24 and will finish March 13. The Court's budget is scheduled to be set before JFAC on March 4. Following the budget setting process, JFAC will then start taking up appropriation “trailer bills,” or those required to fund matters approved by the legislature which are outside of the initial budget setting process. An example of what this means was last year's judicial pay bill which was not in the Court's original budget request; but following passage of [SB 1394 \(2014\)](#), a “trailer bill” was required to then fund the pay legislation.

Of the Court's proposed four “Defects in the Law” bills, three are scheduled for a hearing on the merits in front of the Senate Judiciary and Rules Committee next week, maybe as early as Monday the 16th, and they are:
[S1026](#) DUI License Suspension/ignition interlock devices

[S1027](#) Senior Judge Eligibility
[S1029](#) Financial Transaction Cards, Fraud

[S 1028](#) dealing with speed limits moved through the Senate on Tuesday with a vote of 31-2-2. It has now moved to the House for assignment to committee.

[SB 1049](#) has been introduced and assigned to Senate State Affairs for hearing. This proposed legislation would create a presidential primary election on the second Tuesday in March in the years of presidential elections. All other candidates for state or federal office would be unaffected and would continue to use the May primary election date. The estimated fiscal note may be as much as \$2 million dollars.

The IDAPAs related to [SB 1357 \(2014\)](#) (JRI) involving the Rules governing the Supervision of Offenders on Probation or Parole, and the Rules governing establishment and operation of a Limited Supervision Unit by IDOC, came before the full Senate Judiciary and Rules Committee on February 9. After discussion, the proposed rules were held pending additional hearing time. The IDAPA rules developed by PERSI relating to the transfer of the Judges Retirement Fund (JRF) to PERSI for administration following [HB 660 \(2012\)](#) and the receipt of the required IRS Letter of Determination that the JRF was a qualified plan were before the full Senate Commerce Committee on February 10. The Committee ran out of time to get to the rules and a hearing will be rescheduled.

The Supreme Court's legislative outreach during the annual legislative session continued this week with the following two lunch meetings:

February 9 th	House Minority Leadership
February 12 th	Senate Minority Leadership

On February 12, the Senate Education Committee introduced [SB 1071](#) that would require students to pass a basic civics test to graduate from high school. According to the proposal, a student could take the test at any point after enrolling in the 7th grade and would need to correctly answer at least 70 of 100 questions. Questions would come from the same test that all immigrants applying for U.S. citizenship must pass.

On February 12, during the noon hour, a public rally against the sale or transfer of public lands was held on the Capital Steps. The rally was mostly attended by sportsmen.

Also on February 12, both Chambers held observances for Lincoln Day, which included recitations of the Gettysburg Address. And lastly, this Friday morning, a second concealed weapons bill has received Committee approval to be printed. This new proposal is an NRA-backed proposal which would, among other things, remove the current exemption for elected officials from carrying a concealed weapon without a permit. The bill has not yet been assigned a number. This bill is in addition to the previously printed "Constitutional Carry" bill reported on last week.

On the Radar

February 16: Presidents' Day, a holiday for most, but the legislature will be in session.

February 17: Print hearings before House Judiciary and Rules on the Court's Bail revision bill, as well as changing effective dates of Justice Reinvestment provisions.

February 18 or 19: Germane Committee Reports to JFAC (as it relates to the Idaho Judiciary, this means the co-chairs of the respective Senate and House Judiciary and Rules will address JFAC). Exact date and time have not yet been posted.

February 20: Public Hearing for budget-related issues has been scheduled by JFAC where general members of the public will be able to address the Committee.

February 23: JFAC starts setting FY 2016 Budgets. February 24: Senate Majority Leadership lunch with the Supreme Court.

March 4: The Supreme Court's budget setting is before JFAC beginning at 8:00 am MST.

March 13: JFAC's target date to complete all budget setting.

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Legislative News for the week ending February 6th [Week 4]

Week 4 of the 2015 Idaho Legislative Session opened with the elected Clerks and the Administrative District Judges being present at the Supreme Court for their annual meeting. The agenda included some remarks by each of the 5 Supreme Court Justices during the lunch program, and was followed by a presentation on the Court's Legislative and Budget priorities for FY 2016.

Also on Monday, February 2, Chief Justice Roger Burdick delivered the [*State of the Judiciary*](#) to the Legislature; 11:10 am MST before the Senate Chambers and 11:35 am before the House Chambers. The theme of this year's presentation was "transformation" and was very well received.

In other State of the Judiciary news, legislative leadership has now announced that beginning with the session in 2016, the second Wednesday of every session will be set as the date of the speech by the Chief Justice. In 2016, this will be January 20.

Following the January 29 print hearing before the House Judiciary and Rules Committee on the Court's proposed four pieces of Legislation for the 2015 session, each has now been assigned a bill number and is scheduled to be heard before the House Judiciary and Rules Committee on February 11. The assigned bill numbers are:

[H0061 Juvenile, corrections, probation](#)

[H0062 Victim's restitution judgment lien period](#)

[H0063 Bail revision](#)

[H0064 Credit for time served](#)

The Court's proposed four "Defects in the Law" bills received a print hearing on January 30 before the Senate Judiciary and Rules. Each has now been assigned a bill number and they are:

[S1026 DUI License Suspension/ignition interlock devices](#)

[S1027 Senior Judge Eligibility](#)

[S1028 Speed limits](#)

[S1029 Financial Transaction Cards, Fraud](#)

[S 1028](#) dealing with speed limits was assigned to the Transportation Committee and went before the Committee on February 5 for a hearing on the merits. Following this hearing, the Committee sent the measure to the floor of the Senate with a "Do Pass" recommendation.

As of this writing, the Committee hearings before the Senate Judiciary and Rules on the remaining three defects bills has not been set, but likely will be February 13 at the earliest.

[House Concurrent Resolution No. 2](#) has been introduced seeking to commemorate the 150th anniversary of the building of Eagle Rock Bridge, the first bridge ever to cross the Snake River, which began the founding of a settlement which would ultimately become Idaho Falls, Idaho.

For any of our readers who have a little extra time on their hands and/or who may be otherwise stimulus starved, you may wish to peruse [S1025](#) which is a mere 300 pages. According to the Statement of Purpose, this legislation relates to business organizations and adopts the "*Harmonized Uniform Business Organizations Code*" created by the Uniform Law Commission. The stated purpose of the legislation is to harmonize Idaho's unincorporated and incorporated entity statutes so they can be integrated into a single code of entity laws. When our readers finish these 300 pages, and if still looking for more stimuli, your attention is directed to [S1030](#) for another 39 pages of code corrections to numerous provisions of the Idaho Code. Two additional stimulators are [H0090](#) consisting of 41 pages which reorganizes parts of existing Idaho Code into a new Title 74 "Transparent and Ethical Government", and [H0091](#) consisting of still another 171 pages of code corrections.

[H0090](#) or the "Transparent and Ethical Government" proposal moves the portions of existing Idaho Code dealing with public records, open meetings and government ethics, among other related provisions under this proposed new Title 74. There will likely be additional proposed legislation introduced as early as next week seeking to add a non-judicial appeals process when a public records request is denied -- essentially a mediation process.

On Monday, the House State Affairs committee introduced [H0067](#), laying the groundwork for Idaho to be one of the states seeking to participate in an Article V constitutional convention seeking to create a balanced budget amendment to the United States Constitution. The vote was along party lines, 12 – 3. The bill sets out procedures for appointing delegates from Idaho to such a convention as well as seeks to set certain parameters regarding the participation. This proposal is printed as.

On February 4, District Judge Eric Wildman from Jerome, who is serving as Idaho's water adjudication judge, appeared with Director Gary Spackman before JFAC and gave a presentation on Idaho's several on-going water adjudications. An additional matter being considered is the possible commencement of an adjudication of the Bear River Basin in Southeastern Idaho.

February 5 was the second Annual **Senator Denton Darrington Lecture on Law and Government** held in the Idaho Supreme Court Courtroom. The featured speaker was Jeffrey Rosen, President and CEO of the National Constitution Center, Philadelphia,

Pennsylvania. The program was also broadcast live via web-cast through Idaho Public Television. This annual lecture, sponsored by the University of Idaho College of Law, the Idaho Supreme Court, and the Idaho State Bar and Law Foundation, was established to address a wide range of topics related to the improved administration of the justice system and feature well respected national, state and regional speakers of interest to Idaho citizens, students, and officials from all three branches of government. This year's Darrington Lecture was entitled "The Constitution in the 21st Century", and focused on a general discussion of the history of general warrants and writs of assistance in the Colonial days of America which in good measure lead to the Revolutionary War, and how those historical concerns carry forward into the debates of today over 4th Amendment protections against unreasonable searches and seizures in light of existing technology such as Google, drones, GPS cell phone technology and the like. The lecture was also attended by the Blackfoot High School students who were in Boise for the "We the People" contest. Rosen, who hails from the National Constitution Center in Philadelphia, also illustrated the work performed at the center to promote some of the intended uses of the new Idaho Law Justice and Learning Center (old Ada County Courthouse) which will open later this summer; specifically those surrounding civics education.

The deadline for individual legislators to file "personal bill" has expired in both chambers, and the "germane committee" deadline of February 16 (36th legislative day) is rapidly approaching. Following the germane committee deadline, any bill must come from a "privileged committee." A little further into the session, comparison figures from Legislative Services will start to be published to compare this year's printed bill numbers to prior sessions.

The Legislature continued devoting much of its time this week to a review of administrative rules (IDAPAs) which have been drafted by the various State of Idaho executive branch agencies since the last session. Because each Legislative Chamber reviews and votes on these rules independently of the other, this is a time consuming process. Readers can access the rules coming before the respective Committees for review by visiting the Idaho Legislature Home Page, and clicking on the link Administrative Rules http://adminrules.idaho.gov/legislative_books/2015/index.html.

The IDAPA related to [SB 1357 \(2014\) \(JRI\)](#) and the Rules governing the Supervision of Offenders on Probation or Parole, and the Rules governing establishment and operation of a Limited Supervision Unit by IDOC came before the full House Judiciary and Rules Committee on February 5 at 1:30 pm. The date the Senate Judiciary Committee will take these up is Monday February 9. The IDAPA rules developed by PERSI relating to the transfer of the Judges Retirement Fund (JRF) to PERSI for administration following [HB 660 \(2012\)](#) and the receipt of the required IRS Letter of Determination that the JRF was a qualified plan will also be scheduled for hearings before the full Senate and House Commerce Committees, but as of this writing the dates have not been set.

The first JFAC appropriations bill of the 2015 session of major significance has advanced through both chambers. The bill is [H0026](#), and seeks to appropriate almost \$18 million for the Fire Suppression Deficiency Fund. Deficiency warrants are worth paying attention to because they relate to paying "last years" bills, and basically "come off the top" of the money available for appropriation for the upcoming fiscal year (FY16).

Over the years, the Supreme Court, working with the Administrative Director of the Courts, has substantially increased its legislative and executive outreach during the annual legislative session. These meetings have proved to be of significant benefit to all three branches. This process is in place again this year with the following schedule:

January 15	Governor Otter and staff were at the Supreme Court
February 6	(Noon – 1:00 pm) – House Majority Leadership
February 9	(Noon – 1:00 pm) – House Minority Leadership
February 12	(Noon – 1:00 pm) – Senate Minority Leadership
February 24	(Noon – 1:00 pm) – Senate Majority Leadership

The Idaho Education Network, which is the statewide broadband network designed to link Idaho high schools across all parts of the state was the subject of a long and challenging JFAC hearing on February 5. The contract involved in this case has been before the Idaho Supreme Court and is now back before a district judge in Ada County. The \$60 million contract has been judicially declared illegal and void.

On Thursday, the House State Affairs Committee agreed to print a new bill ([H0089](#)) regarding concealed weapons. Under the proposal, Idaho residents would be able to carry concealed weapons without a permit. The legislation has been tagged "the Constitutional Carry" bill.

Medicaid expansion was back before legislative Committees this week. Led by IDHW Director Dick Armstrong, the governor-appointed panel appeared before the House Health and Welfare Committee on Thursday and is scheduled to appear before the Senate Health and Welfare Committee today, February 6.

On the Radar

February 11: A special hearing on Justice Reinvestment – Implementation, Status, Cost Savings, and Use of FY 2015 Appropriations will be presented to JFAC by the JRI Steering Committee (IDOC Director Kevin Kempf, Executive Director of the

Idaho Pardon and Parole Commission Sandy Jones, and Patti Tobias on behalf of the Idaho Judiciary). The hearing is presently scheduled for 8:00 - 8:40 am MST.

February 11: The Courts 4 Legislative bills are scheduled before the House Judiciary, Rules and Administration Committee for hearing.

February 12: Former Chief Justice Linda Copple Trout, Interim Administrative Director of the Courts, will deliver the Court's budget presentation to JFAC, presently scheduled for 8 a.m. to 8:50 MST.

February 18 or 19: Germane Committee Reports to JFAC (as it relates to the Idaho Judiciary, this means the Co-Chairs of the respective Senate and House Judiciary and Rules will address JFAC). Exact date and time have not yet been posted.

February 20: Public Hearing for Budget-Related Issues has been scheduled by JFAC where general members of the public will be able to address the Committee.

February 23: JFAC starts setting FY 2016 Budgets. The exact date for the Idaho Supreme Court Budget Setting has not yet been posted.

March 13: JFAC's target date to complete all budget setting.

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Legislative News for the week ending January 30th [Week 3]

Week 3 of the Idaho Legislature opened at 8 a.m. sharp with a large crowd already gathered for the House State Affairs Committee being held in the Lincoln Auditorium on [H0002](#) -- the “Add the Words” bill seeking to provide civil rights protections regarding sexual orientation and gender identity. The size of the initial crowd required three overflow rooms being opened in adjacent Senate Committee hearing rooms to accommodate interested persons; both those wishing to testify as well as observers. The hearings then lasted over three days, with the measure ultimately failing in Committee on Thursday along a straight party-line vote, 13-4.

Two Gubernatorial Appointment hearings with relevance to the Idaho Judiciary were held this week before the Senate Judiciary and Rules Committee. Sara Thomas was reappointed as the Idaho State Appellate Public Defender, and Gary Scheihing was appointed to the Commission of Pardons and Parole.

By at least one measure of how the session is moving forward, and as reported last week, the last day for filing a “personal bill” by an individual legislator in the Senate was last Friday, January 23, and in the House is today, January 30. This means that the deadline for any individual legislator to ask that a bill be introduced has now passed. Following this personal bill deadline, there is a “germane committee” deadline of February 16 (the 36th legislative day). Following the germane committee deadline, any bill must come from a “privileged committee.”

The Legislature continued devoting much of its time this week to a review of administrative rules (IDAPAs) which have been drafted by the various State of Idaho executive branch agencies since the last session. Because each Legislative chamber reviews and votes on these rules independently of the other, this is a time consuming process. Readers can access the rules coming before the respective Committees for review by visiting the Idaho Legislature Home Page, and clicking on the link Administrative Rules http://adminrules.idaho.gov/legislative_books/2015/index.html .

Two areas of IDAPA rules developed since the 2014 legislative session which involve the Courts were heard by subcommittees of germane committees on January 21. The first of those related to [SB 1357 \(2014 - JRI\)](#) and the Rules Governing the Supervision of Offenders on Probation or Parole, and the Rules governing establishment and operation of a Limited Supervision Unit by IDOC. Steve Bywater presented testimony to the House Judiciary and Rules subcommittee. The subcommittee voted to send the proposed rules to the full Committee for approval. These two IDAPAs are tentatively scheduled to come before the full House Judiciary and Rules Committee on February 3 at 1:30 pm MST. The date the Senate Judiciary Committee will take these up has not been established as of this writing; but may be as early as February 2.

The second were IDAPA rules developed by PERSI relating to the transfer of the Judges Retirement Fund (JRF) to PERSI for administration following [HB 660 \(2012\)](#) and the receipt of the required IRS Letter of Determination that the JRF was a qualified plan. The actual transfer of the JRF to PERSI for administration was effective July 1, 2014. These IDAPAs were before a subcommittee of the House Commerce and Human Resources Committee on January 21. The subcommittee voted to recommend approval of the Rules as drafted to the full Committee. These IDAPAs will also be scheduled for hearings before the full Senate and House Commerce Committees, but as of this writing the dates have not been set.

The first JFAC appropriations bill of the 2015 session of major significance is advancing through the House floor calendar. The bill is [H0026](#), and seeks to appropriate almost \$18 million for the Fire Suppression Deficiency Fund. Deficiency warrants are worth paying attention to because they relate to paying “last years” bills, and basically “come off the top” of the money available for appropriation for the upcoming fiscal year (FY 2016).

On January 28 a panel of Magistrate Judges made a presentation to the Senate Judiciary & Rules Committee. This educational outreach to the Legislators was well received. A similar presentation has already been arranged in 2016 before the House Judiciary and Rules Committee. The presenters and topics were:

Administrative Office of the Courts – Senior District Judge Barry Wood (Introduction)

District 4 – Judge Michael Oths (Who we are and where we come from)

District 1 – Judge Debra Heise (Child Protection)

District 2 – Judge Kent Merica (Family Court Services)

District 3 – Judge Dayo Onanubosi (Juvenile Courts)

District 5 – Judge Rick Bollar (Domestic Violence)

District 6 – Judge Rick Carnaroli (Criminal Courts)

District 7 – Judge Ryan Boyer (Problem Solving Courts)

On January 29, Michael Henderson and Barry Wood appeared before the House Judiciary and Rules Committee for print hearings on the Court’s proposed four pieces of Legislation for the 2015 session. Each was approved for printing by the Committee and will soon be assigned a House Bill number. As of early Friday morning, the bill numbers had not yet been assigned to enable the listing here.

On January 30, Michael Henderson is scheduled to appear before the Senate Judiciary and Rules Committee at 1:30 pm MST for print hearings on the Court's proposed four "Defects in the Law" bills. This hearing just got finalized January 28 and there was not time to provide you notice.

On the Radar

February 2: Chief Justice Roger Burdick will deliver the *State of the Judiciary* to the Legislature. The schedule is 11:10 am MST before the Senate Chambers; 11:35 am MST before the House Chambers.

February 2: Elected Clerks and Judges Conference/ New Clerk Orientation at the Supreme Court

February 3: Administrative Conference

February 4: Idaho Department of Water Resources, together with Judge Eric Wildman, will present the water adjudication budget before JFAC

February 5: The Second Annual **Senator Denton Darrington Lecture on Law and Government** is scheduled to begin at 4 pm MST in the Idaho Supreme Court Courtroom. The featured speaker is Jeffrey Rosen, President and CEO of the National Constitution Center, Philadelphia, Pennsylvania. The program also will be live via web-cast through Idaho Public Television. The annual lecture is sponsored by the University of Idaho College of Law, the Idaho Supreme Court, and the Idaho State Bar and Law Foundation. The lecture was established to address a wide range of topics related to the improved administration of the justice system and feature well respected national, state and regional speakers of interest to Idaho citizens, students, and officials from all three branches of government.

February 11: A special hearing on Justice Reinvestment – Implementation, Status, Cost Savings, and Use of FY 2015 Appropriations will be presented to JFAC by the JRI Steering Committee (IDOC Director Kevin Kempf, Executive Director of the Idaho Pardon and Parole Commission Sandy Jones, and Patti Tobias on behalf of the Idaho Judiciary). The hearing is presently scheduled for 8:00 - 8:40 am MST.

February 12: Former Chief Justice Linda Copple Trout, Interim Administrative Director of the Courts, will deliver the Court's budget presentation to JFAC, presently scheduled for 8 :00 - 8:50 am MST.

February 18 or 19: Germane Committee Reports to JFAC (as it relates to the Idaho Judiciary, this means the Co-Chairs of the respective Senate and House Judiciary and Rules will address JFAC. Exact date and time have not yet been posted).

February 20: Public Hearing for budget-related issues has been scheduled by JFAC where general members of the public will be able to address the Committee.

February 23: JFAC starts setting FY 2016 Budgets. The exact date for the Idaho Supreme Court Budget Setting has not yet been posted.

March 13: JFAC's target date to complete all budget setting.

As a reminder for our remote on-line listeners who are interested in following legislative proceedings, first look for the appropriate agenda at <http://legislature.idaho.gov/sessioninfo/agenda.htm> . Then if you locate something of interest, at the designated time, tune in on-line to "Idaho in Session" at <http://idahoptv.org/insession/> . From there, click on the "Legislature" icon and follow the prompts to the desired committee. Please note that JFAC has its own icon. In 2014 the Committee rooms were upgraded to include video as well as audio.

As always, if you have any thoughts, suggestions, or questions, please send them back this way -- <mailto:bwood@idcourts.net>. Thanks for reading.

Legislative News for the week ending January 23rd [Week 2]

Even though the Legislature has really just begun, there is already a prediction of an ending date, with some suggesting March 27 as *adjournment sine die*.

Other dates of interest which have been established by Legislative Leadership are the last day for filing a "personal bill" by an individual legislator in the Senate is January 23, and in the House is January 30. This means that any individual legislator can ask that a bill be introduced up to these dates. After the personal bill deadline has passed, there is a "germane committee" deadline of February 16 (36th legislative day). Following the germane committee deadline, any bill must come from a "privileged committee". Monday was the official state Martin Luther King Jr./Idaho Human Rights Day Holiday but the Idaho Legislature had a full day of legislative activities on the schedule. Chief among them were JFAC beginning a full week of hearings on Health and Human Services budgets. Next week beginning January 26 is Education week before the Committee.

On the actual legislation side of things, [H0001](#), which was a renewed effort to get the Giant Salamander designated as the Official State of Idaho Amphibian, received a House State Affairs Committee hearing. The bill never made it through Committee amid lawmaker's concerns about "federal overreach." There have been annual attempts over the last five years by a young lady who is now an 8th grader to get this legislation through the process.

Court reporters may want to be aware that [H0030](#) dealing with certified shorthand reporters has been printed. We have not had time to evaluate what impact, if any, this may have.

The Legislature devotes much of its time in the first few weeks of every session to a review of administrative rules (IDAPAs) which have been drafted by the various State of Idaho executive branch agencies since the last session. These rules are drafted to implement or interpret laws enacted in prior sessions. This year is no exception, and the review process by the respective germane committees has begun in earnest. Idaho Law provides that the legislature can veto agency rules in whole or in part. Many of those rules do not attract very much attention; however some draw considerable attention. A few ultimately get rejected. Each Legislative Chamber reviews and votes on these rules independently of the other. Readers can access the rules coming before the respective Committees for review by visiting the Idaho Legislature Home Page, and clicking on the link [Administrative Rules](#).

[HJR 2 \(2014\)](#), which was on the ballot in November, 2014, sought to amend Article III of the State's Constitution by adding a new section 29 preserving to the Legislature the ability to approve or reject, in whole or in part, these executive branch rules; and to provide that the legislature's approval or rejection of a rule would not require the approval of the Governor. The stated purpose of this proposed amendment was to protect the separation of powers because these rules, once enacted, have the force and effect of law. The proposed Constitutional Amendment required a simple majority to become law; it failed by 4,705 votes or 49.4% to 50.6%.

Two areas of IDAPA rules developed since the 2014 legislative session which involve the Courts were heard by Sub-Committees of Germane Committees on January 21. The first of those related to [SB 1357 \(2014\) \(JRI\)](#) and the Rules governing the Supervision of Offenders on Probation or Parole, and the Rules governing establishment and operation of a Limited Supervision Unit by IDOC. Steve Bywater presented testimony to the House Judiciary and Rules Sub-Committee. The subcommittee voted to send the proposed rules to the full Committee for approval. These two IDAPAs are tentatively scheduled to come before the full House Judiciary and Rules Committee on either January 27 or 29.

The second were IDAPA rules developed by PERSI relating to the transfer of the Judges Retirement Fund (JRF) to PERSI for administration following [HB 660 \(2012\)](#) and the receipt of the required IRS Letter of Determination that the JRF was a qualified plan. The actual transfer of the JRF to PERSI for administration was effective July 1, 2014. These IDAPAs were before a subcommittee of the House Commerce and Human Resources Committee on January 21. The subcommittee voted to recommend approval of the Rules as drafted to the full Committee. These IDAPAs are also tentatively scheduled for hearing before the full House Commerce Committee next week.

President Obama made a visit to Boise on the afternoon of January 21, 2015, which required some accommodation of schedules for Legislators who wished to take time off and attend the President's speech at BSU.

On the Radar

January 28: a panel of Magistrate Judges will make a presentation to the Senate Judiciary & Rules Committee

January 29: the Court's proposed four pieces of legislation are tentatively scheduled before the House Judiciary and Rules Committee for a print hearing beginning at 1:30 pm MST. [Click here](#) to check the Committee's agenda online, beginning late afternoon of January 28 for confirmation of the schedule.

February 2: Chief Justice Roger Burdick will deliver the *State of the Judiciary* to the Legislature

February 2: Elected Clerks and Judges Conference/ New Clerk Orientation at the Supreme Court

February 3: Administrative Conference

February 4: Idaho Department of Water Resources, together with Judge Eric Wildman, will present the water adjudication budget before JFAC

February 4: The Court's four "Defects" bills are tentatively schedule for a print hearing before the Senate Judiciary and Rules Committee

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Constitution Center, Philadelphia, Pennsylvania. The program also will be live via web-cast through Idaho Public Television. The annual lecture is sponsored by the University of Idaho College of Law, the Idaho Supreme Court, and the Idaho State Bar and Law Foundation. The lecture was established to address a wide range of topics related to the improved administration of the justice system and feature well respected national, state and regional speakers of interest to Idaho citizens, students, and officials from all three branches of government.

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Legislative News for the week ending January 16th [Week 1]

For those who wonder how the beginning date of the Legislature is set each year, see [Idaho Code § 67-404](#), which provides the session begins on the Monday closest to the 9th of January. In 2013 the date was January 7. In 2015 it was January 12. In 2016 it will be January 11.

The 1st Regular Session of the 63rd Idaho Legislature opened Monday, January 12, 2015. A Joint Session of the House and Senate, together with both the Idaho Supreme Court and the Court of Appeals in attendance, heard Governor Butch Otter's 9th [combined State of the State and Budget Message](#).

Additional written materials provided included *FY 2016 Budget Highlights* which included: "... the Governor recommends a 3% change in employee compensation (CEC) to be based on merit with flexibility for directors to address agency needs. He also recommends "fully funding increased health benefit costs, thus cancelling the scheduled shift of costs to employers." This is a recommendation for executive branch agencies, and will be considered by the Legislature. A legislative committee held meetings and heard testimony from affected state employees last week and continued this week. The CEC discussed above does not apply to judicial employees (Justices and Judges because of SB 1394 from the 2014 session), but will likely apply to the Court's non-judicial employees. Other priorities of the Governor for this session include:

- Funding for an additional Crisis Center like the one put in Idaho Falls in 2014
- Calls for hearings on Idaho Medicaid redesign following the findings of a Workgroup
- Calls for collection of sales tax on internet sales of goods
- Significant funding increases for Public Schools
- Re-bidding of the Idaho Education Network Wi-Fi contracts for public schools
- Increase the numbers of Community Colleges
- Increased funding for Transportation infrastructure
- Reduce the rate of the State's income tax

Following the Governor's presentation to the Joint Legislative Session, the Department of Financial Management released the [Idaho General Fund Revenue Report](#) for January, 2015 listing FY2015 General Fund Revenues to date which shows the revenues are exceeding the FY 2014 actual collections but are slightly below projected revenues.

In other budget related news, Governor Otter – working through his staff – has predicted a 5.5% growth in state general fund revenue next fiscal year (but is recommending a spending increase at a level of 5.2%). The Legislature's joint Economic Outlook & Revenue Assessment Committee set their own revenue projection, which closely mirrored the Governor's. This determination is key because the dollar figure adopted by the Legislature's joint committee provides the basis for setting the state's budget. Idaho is clearly in a much better financial position than it was just a few short years ago during the big economic downturn. This is particularly good news for the Court's large Odyssey project and its continued funding needs.

On January 12, the members of the Joint Legislative Oversight Committee received a report from the Legislature's Office of Performance Evaluation which concluded that when the Legislature doesn't allocate monies for pay raises for state employees and instead directs agencies to use any salary savings for raises, the result is an inequitable distribution of raises and a "perverse incentive" for state agencies to not follow their budgets. [Click here for OPE's report.](#)

The District Judges were in town January 12-14 for the annual District Judges Conference. On the evening of January 12, an award was presented to outgoing Director of the Idaho Department of Correction Brent Reinke (see photo in today's E-News). On January 13, the district judges appeared at the Capitol and the seven Administrative District Judges made a presentation to the House Judiciary, Rules and Administration Committee. The Committee members asked questions of some of the presenters and the program was well received. This presentation was broadcast statewide over Idaho Public Television's ["Idaho in Session" network.](#)

The Justice Reinvestment Steering Committee (JRI) also met this week. This working group consists of the Director of IDOC, the Director of the Idaho Parole Commission, and Patti Tobias on behalf of the Idaho Supreme Court, together with a representative of the Governor's Office. Of significant interest legislatively, there may be a proposal to amend certain effective date provisions of [SB 1357 \(2014\)](#). This group is also working closely with the Court's Felony Sentencing Committee (FSC) on the implementation of SB 1357.

The Supreme Court justices and Court of Appeals judges met with Governor Otter and members of his staff on January 15 for lunch and an informal discussion on matters of interest to both Branches. Similar meetings with each legislative leadership team from both houses are being scheduled as well. These are annual events during the legislative session and we are very fortunate in Idaho to have such close working relationships with leadership from the other Branches of government.

On the actual legislation side of things, three bills have been introduced in the House as of this writing:

- [H0001](#) is a renewed effort to get the Giant Salamander designated as the State Amphibian. There have been multiple attempts over the last several years by a young school student to get this legislation through the process and it has provided some good humor along the way.
- [H0002](#) seeks to amend existing law to provide that freedom from discrimination because of sexual orientation or gender identity is a civil right. This printing is mentioned because it relates to the so-called "Add the Four Words" movement which resulted in numerous protests in the Capitol building during the 2014 Legislative Session, resulting in arrests of protesters, which in turn resulted in court proceedings for some of our magistrate judges.
- [H0003](#) seeks to clarify by amendment the statute containing the qualifications required to serve in the Idaho Legislature to match the requirements contained in the State's Constitution. In a 2014 court case (*Caleb Hansen v. Ysursa*), the district judge recommended that the inconsistency be addressed to help eliminate confusion by someone looking only at the statute for the requirements. This proposed legislation is mentioned in part because there is also a bill being proposed to clarify appointment and election criteria related to judges. This proposal is being circulated to all judges for comment before it is actually printed, so our readers are encouraged to examine this proposal and provide feedback.

In other news around the Capitol which will have some impact on the Courts as they work with the Idaho Department of Correction, Governor Otter appointed Debbie Field as chair of the Idaho Board of Correction. Field is a former chair of the House Judiciary, Rules and Administration Committee, and replaces Robin Sandy who recently retired from the board.

On the Radar:

January 28: a panel of magistrate judges will make a presentation to the Senate Judiciary & Rules Committee.

February 2: Chief Justice Roger Burdick will deliver the State of the Judiciary.

February 12: Interim Administrative Director of the Courts Justice Trout will deliver the Court's budget presentation to JFAC.

Pre-Session Legislative News [Week -0-]

The first *Legislative News* for the 2015 Session will be included in the E-News on Friday, January 16. However, here is a brief primer on how and what to follow the first week.

[Click here](#) to access the 2015 Legislative Home page. From this page, you can access many different matters of interest including calendars and agendas of the various legislative committees, the budget hearing schedules, the newly updated 2015 Legislative Directory, create your own individualized Bill Tracker, and you can watch live coverage of House and Senate floor proceedings, as well as legislative committee hearings. Just click on the link you are interested in.

On Monday, January 12 at 1:00 pm MST you can tune in to the Governor's combined State of the State and Budget address. On Tuesday, January 13 at 1:30 pm MST you can listen live to the House Judiciary and Rules Committee where there will be a presentation by the Administrative District Judges. From the Legislative Home page link above, just click on the "Video and Audio Streaming" link and you will be taken to the "Idaho in Session – Legislature Live" page (www.idahoptv.org/insession/leg.cfm). From there, click on the appropriate links.

For Committees, scroll down to the "Committees/Locations" section and follow the prompts.

As of this writing, Committee agendas are not yet available or posted, but you can check the "Calendars and Agendas" link on the Legislative Home Page starting Monday, the 12th. These are usually posted by late afternoon for the next day's business.

- >> Monday, January 12th is the first day of the session
- >> [Building Productive Legislative-Judicial Relationships](#)
- >> [2015 Legislative Review Teams](#)

2015 Budget & Legislative Priorities

[The Court's Budget Priorities for the 2015 Legislative Session](#)

[The Court's Legislative Priorities for the 2015 Legislative Session](#)

[Judicial Recruitment and Excellence](#) | [Court Technology](#) | [Child Protection](#) | [Senior Judges](#)

Yearly Reports

[Advancing Justice](#)

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